

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Sergio Garcia,

Civ. No. 23-261 (JWB/ECW)

Plaintiff,

v.

Warden B. Eischen; K. Winger, *Unit Manager*; J. Kozulla, *Case Manager*; Mrs. Flinckler, *FSA Manager at FPC Duluth*,

**ORDER ACCEPTING
REPORT AND RECOMMENDATION
OF MAGISTRATE JUDGE**

Defendants.

United States Magistrate Judge Elizabeth Cowan Wright issued a Report and Recommendation (“R&R”) in this matter on October 4, 2023. (Doc. No. 7.) No objections have been filed to that R&R in the time permitted. In the absence of timely objections, the R&R is reviewed for clear error. *See* Fed. R. Civ. P. 72(b); *Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996). Having reviewed the R&R, no clear error is found.

Based on the R&R of the Magistrate Judge, and on all of the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. The October 4, 2023 Report and Recommendation (Doc. No. 7) is **ACCEPTED**; and
2. This case is **DISMISSED WITHOUT PREJUDICE** under Federal Rule

of Civil Procedure 4(m) for failure to serve and Rule 41(b) for failure to prosecute.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Date: October 25, 2023

s/ Jerry W. Blackwell
JERRY W. BLACKWELL
United States District Judge